

BOROUGH OF BRADLEY BEACH, MONMOUTH COUNTY

ORDINANCE NO. 2020-05

**AN ORDINANCE AMENDING CHAPTER 450: “ZONING”
OF THE BOROUGH’S REVISED GENERAL ORDINANCES
TO CLARIFY THAT ALL RECREATIONAL MARIJUANA
AND/OR MEDICAL CANNABIS ESTABLISHMENTS,
CULTIVATION FACILITIES, TESTING FACILITIES, AND
PRODUCTION FACILITIES ARE PROHIBITED USES
WITHIN THE BOROUGH OF BRADLEY BEACH**

Mayor Engelstad offered the following Ordinance and moved its introduction:

WHEREAS, in 2019, the New Jersey Cannabis Regulatory and Expungement Aid Modernization Act (the “Act”) was nearly adopted by the State’s Legislature and Governor; and

WHEREAS, the Act would have changed the State’s marijuana policies by taxing, controlling, and legalizing cannabis products in a similar fashion to the regulation of alcohol for adults; and

WHEREAS, despite the Act’s ultimate defeat in the State’s Legislature in 2019, the question of whether to change the State’s marijuana policies will be presented to New Jersey voters via referendum at the 2020 General Election; and

WHEREAS, the Mayor and Council of the Borough of Bradley Beach (the “Borough”) are concerned about the health and safety problems posed by the use of cannabis products, the potential for abuse, and especially, any use by minors; and

WHEREAS, the Mayor and Council of the Borough believe that businesses supporting the testing, manufacturing, or sale of marijuana might adversely impact traffic, parking and density in the Borough; and

WHEREAS, in advance the potential results of the statewide referendum to be held at the 2020 General Election, the Borough’s Mayor and Council believe that now prohibiting all classes of marijuana and/or cannabis uses within the Borough will help address these concerns and be in the best interest of the citizens of the Borough;

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Bradley Beach, County of Monmouth, and State of New Jersey as follows:

SECTION 1. Section 10 entitled “Prohibited Uses In All Zones” of Chapter 450 entitled “Zoning” of the Revised General Ordinances of the Borough of Bradley Beach is hereby supplemented and amended to include new subsection (39) of Section 450-10(A) as follows:

- (39) The operation of Medical Cannabis Retail Establishments, Recreational Marijuana Retail Establishments, Marijuana Cultivation Facilities, Marijuana Production Facilities and Marijuana Testing Facilities.

SECTION 2. Section 4 entitled “Definitions” of Chapter 450 entitled “Zoning” of the Revised General Ordinances of the Borough of Bradley Beach is hereby supplemented and amended to include the following definitions:

MEDICINAL CANNABIS RETAIL ESTABLISHMENT - an entity licensed pursuant to the New Jersey Compassionate Use Medical Marijuana Act (P.L. 2009, c. 307) to lawfully purchase or receive medical cannabis and to sell medical cannabis and medical cannabis products to consumers from a retail store, with a full time pharmacist on site during operational hours, which shall also be known as a medical cannabis dispensary or medical marijuana dispensary.

MARIJUANA CULTIVATION FACILITIES - A facility licensed to grow and cultivate marijuana and/or cannabis and to sell marijuana and/or cannabis to cultivation facilities but not to consumers.

MARIJUANA PRODUCT MANUFACTURING FACILITIES - An entity licensed to purchase marijuana and/or cannabis; manufacture, prepare and package marijuana and/or cannabis items; and sell items to other marijuana and/or cannabis product manufacturing facilities and to marijuana and/or cannabis retailers, but not to consumers.

MARIJUANA TESTING FACILITIES - An independent, third-party entity meeting accreditation requirements and is licensed to analyze and certify the safety and potency of marijuana and/or cannabis products and/or items.

RECREATIONAL MARIJUANA RETAIL ESTABLISHMENTS - an entity licensed to purchase recreational marijuana and/or cannabis from Marijuana Cultivation Facilities and recreational marijuana and/or cannabis items from Marijuana Product Manufacturing Facilities or recreational marijuana and/or cannabis wholesalers, and to sell recreational marijuana and/or cannabis and recreational marijuana and/or cannabis products to consumers from a retail store, which shall also be known as a dispensary.

SECTION 3. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 4. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Bradley Beach, the provisions hereof shall be determined to govern. All other parts, portions and provisions of The Revised General Ordinances of the Borough of Bradley Beach are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 5. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Bradley Beach for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough's Mayor & Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

SECTION 6. This Ordinance shall take effect immediately upon (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) filing of the final form of adopted ordinance by the Clerk with the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-16.

SO ORDAINED as aforesaid.

ERICA KOSTYZ
Municipal Clerk

GARY ENGELSTAD
Mayor

Introduced: March 3, 2020

Date of Hearing and Adoption: